

## **ARTICLE XVIII**

### **Fremont New Hampshire Zoning District Map and Zoning District Ordinance inclusive of an Open Space Preservation Ordinance and Home Occupations.**

#### **1. ESTABLISHMENT OF DISTRICTS**

The Town of Fremont is hereby divided into the following Zoning Districts: Flexible-Use Residential, Commercial Highway, Corporate/Commercial and existing Districts which include the Fremont Village District, Wetlands and Watershed Protection District and the Aquifer Protection District.

#### **2. LOCATION**

The Flexible-Use Residential, Commercial Highway, Corporate/Commercial and the Fremont Village District are shown on the Fremont New Hampshire Zoning District Map dated December 13, 2006 kept by the Town Clerk as the official Zoning Map. The areas of the districts include tax map parcels as depicted on the Zoning Map. The Wetlands and Watershed Protection District and the Aquifer Protection District are overlay zoning districts. The lands included thereon are as defined in Article IX, Wetland and Watershed Protection District and in Article XI, the Aquifer Protection District.

#### **3. INTERPRETATION OF DISTRICT BOUNDS**

The location of district boundary lines shown upon the Zoning Map shall be determined as follows

- 3.1** Where a boundary is shown as following a street or utility, the boundary shall be the center line thereof unless otherwise indicated.
- 3.2** Where a boundary is shown as following a watercourse, the boundary shall coincide with the center line thereof as said center line existed at the date of the Zoning Map.
- 3.3** Where a boundary apparently follows a property line, it shall be interpreted as such. Such property line shall be interpreted as one existing at the time of enactment of this Ordinance. If any boundary as surveyed shall be different than as shown on the Zoning map, such surveyed boundary shall control.

#### **4. FLEXIBLE USE RESIDENTIAL DISTRICT**

##### **4.1 Purpose:**

The intent of the Flexible-Use Residential district is to provide for residential development on individual lots, or agricultural use, which can be accommodated on the land without major alterations of the natural terrain, vegetation, watercourses or surface, and commercial development along connector (non-subdivision) streets.

- 4.1.1** By Conditional Use Permit, the Planning Board may allow commercial operations on specific roads identified on the Fremont, NH, Zoning District Map, based on the conditions laid out in Section 8 of this Ordinance. The total maximum square footage of all commercial structures on a single parcel, in the Flexible Use Residential District, is ten thousand (10,000) Square Feet.
- 4.1.2** Within the Flexible Use Residential District the Planning Board may grant a Conditional Use Permit for an Open Space Preservation Development, anywhere in the district, as per Section 10 of this Ordinance.

## **5. COMMERCIAL HIGHWAY DISTRICT**

### **5.1 Purpose:**

The intent of the Commercial Highway district is to permit general commercial uses in areas on streets with high traffic volumes and to buffer abutting residential neighborhoods from disturbance and disruption. The maximum square footage of an individual commercial use in the Commercial Highway is twenty five thousand (25,000) Square Feet.

- 5.1.1** Certain commercial operations may only be allowed by a Conditional Use Permit issued from the Planning Board. See the Table of Uses for a list of the uses that require a Conditional Use Permit.

## **6. CORPORATE COMMERCIAL**

### **6.1 Purpose:**

The intent of the Corporate / Commercial district is to provide areas for corporate business parks, research and development, light-manufacturing, processing, assembly, wholesaling, and transportation-oriented activities and related services such as trucking and warehousing providing that such uses are determined not to be injurious or hazardous to the public health, safety, and/or welfare. Furthermore, the intent of the district is to reserve suitable land for the location of new industry and to enhance economic development and employment.

**6.1.1** Certain commercial and industrial operations may only be allowed by a Conditional Use Permit issued from the Planning Board. See the Table of Uses for a list of the uses that require a Conditional Use Permit.

## 7. TABLE OF USES

**Districts: C/C = Corporate Commercial District. C H = Commercial Highway District. FUR = Flexible Use Residential District.**

P = Permitted, X = Prohibited, CU = Must obtain a Conditional Use Permit from the Planning Board

<b>Use Category</b>	<b>Use</b>	<b>C/C</b>	<b>C H</b>	<b>FUR</b>
<b>Assembly Uses</b>	Motion Picture Theaters	P	P	X
	Symphony and Concert Halls	P	P	X
	Television and Radio Studios with an Audience	P	P	X
	Theaters	P	P	X
	Banquet halls	P	P	X
	Night Clubs	P	P	X
	Restaurants	P	P	CU
	Taverns and Bars	P	P	X
	Amusement Arcades	P	P	CU
	Art Galleries	P	P	CU
	Bowling Alleys	P	P	CU
	Churches	P	P	CU
	Community Halls	P	P	CU
	Courtrooms	P	P	CU
	Dance Halls (no food/drink)	P	P	CU
	Exhibition Halls	P	P	CU
	Funeral Parlors	P	P	CU
	Gymnasiums (w/o seating)	P	P	CU
	Indoor Swimming Pools	P	P	CU
	Indoor Tennis Courts	P	P	CU
	Lecture Halls	P	P	CU
	Libraries	P	P	CU
	Museums	P	P	CU
	Pool and Billiard Parlors	P	P	CU
	Arenas	P	P	X
	Skating Rinks	P	P	X
	Swimming Pools	P	P	X
	Tennis Courts	P	P	X
	Amusement Park Structures	P	P	X
	Bleachers or Grandstands	P	P	X

Use Category	Use	C/C	C H	FUR
	Stadiums	P	P	X
<b>Business Group</b>	Airport Traffic Control Towers	X	X	X
	Animals Hospitals, Kennels and Pounds	P	P	CU
	Banks	P	P	CU
	Barber and Beauty Shops	P	P	CU
	Car Wash	P	P	X
	Civic Administration	P	P	CU
	Clinic, Outpatient	P	P	CU
	Dry Cleaning and Laundries	P	P	X
	Educational Occupancies Above 12th Grade	P	P	CU
	Electronic Data Processing	P	P	CU
	Laboratories	P	P	X
	Motor Vehicle Showrooms	P	P	X
	Post Offices	P	P	CU
	Print Shops	P	P	CU
	Professional Services	P	P	CU
	Radio and Television Stations	P	P	X
	Telephone Exchanges	P	P	CU
<b>Factory Industrial</b>	Moderate-Hazards	P	X	X
	Beverages, up to 12% alcohol content	P	P	X
	Brick and Masonry	P	P	X
	Ceramic Products	P	P	X
	Foundries	P	P	X
	Glass Products	P	P	X
	Gypsum	P	P	X
	Ice	P	P	X
	Metal Products (fabrication and Assembly)	P	P	X
<b>Institutional</b>	Residential Board and Care Facilities	CU	CU	CU
	Assisted Living Facilities	CU	CU	CU
	Halfway Houses	CU	CU	X
	Group Homes	CU	CU	CU
	Congregate Care Facilities	CU	CU	CU
	Social Rehabilitation Facilities	CU	CU	CU
	Alcohol and Drug Centers	CU	CU	X
	Convalescent Facilities	CU	CU	CU
	Hospitals	CU	CU	CU

Use Category	Use	C/C	C H	FUR
	Nursing Homes	CU	CU	CU
	Mental Hospitals	CU	CU	CU
	Detoxification Facilities	CU	CU	CU
	Adult Day Care Facilities	CU	CU	CU
	Child Day Care Facilities	CU	CU	CU
<b>Mercantile</b>	Department Stores	P	P	CU
	Drug Stores	P	P	CU
	Markets	P	P	CU
	Motor Fuel-dispensing Facilities	X	X	X
	Retail or Wholesale Stores	P	P	CU
	Sales Rooms	P	P	CU
<b>Residential</b>	Boarding Houses	X	P	CU
	Hotels	P	X	X
	Motels	P	X	X
	Apartment Houses	CU	CU	P
	Convents	CU	CU	CU
	Dormitories	CU	CU	CU
	Fraternities and Sororities	CU	CU	CU
	Monasteries	CU	CU	CU
	Vacation Timeshare Properties	CU	CU	CU
	Single Family Residential	X	X	P
	Duplex Housing	X	X	P
	Multi-family Housing	X	X	P
	Residential/Assisted Living (more than 5 but not more than 16)	X	P	CU
<b>Outdoor/ Recreational Uses</b>	Athletic fields	P	P	CU
	Airfields	CU	CU	CU
	Heliports	P	CU	CU
	Campground	X	X	CU
	Shooting Range	X	X	X
	Golf Course	CU	P	CU
<b>Accessory Uses</b>	Agricultural Buildings	P	P	P
	Aircraft Hangers (accessory to a residence)	P	P	X
	Barns	P	P	P

Use Category	Use	C/C	C H	FUR
	Fences (over 6-feet)	P	P	P
	Grain Silos (accessory to a residence)	P	P	P
	Greenhouses	P	P	P
	Livestock Shelters	P	P	P
	Stables	P	P	CU

\* Moderate and High Hazard storage is based on the definition of said uses in the International Building Code as adopted by the State of New Hampshire, as amended.

**7.1** The uses in the table above are based on a list of uses provided in the International Building Code (IBC). The IBC has been adopted by the State of New Hampshire as the statewide building code.

## **8. CONDITIONAL USE PERMIT**

Pursuant to RSA 674:21, the planning board is hereby authorized to grant a Conditional Use Permit to allow for a conditional use in accordance with the restrictions and requirements of this section. A Conditional Use Permit may not establish a use specifically prohibited by this Ordinance.

**8.1** Purpose. This section is to provide a conditional method to permit commercial uses that are consistent with the intent of the underlying zoning district, as indicated by the Table of Uses in Section 7 of this Ordinance. A conditional use permit application shall be administered by the Planning Board to insure that conditional use opportunities do not adversely impact neighboring properties, and are consistent with the health, safety and welfare of the public.

Conditional Use Permits. All commercial development in the Flexible Use Residential District, and uses within other districts that require a Condition Use Permit, shall obtain a conditional use permit from the Planning Board. The conditional use permit shall clearly set forth all conditions of approval and shall clearly list all plans, drawings and other submittals that are part of the approved use. Everything shown or otherwise indicated on a plan or submittal that is listed on the conditional use permit shall be considered to be a condition of approval. Construction shall not deviate from the stated conditions without approval of the modification by the Planning Board.

**8.3** Application Procedure. Applications for conditional use permits shall be made in accordance with the procedures set forth in the Site Plan Review Regulations of the Planning Board. Applications shall comply with all requirements of the Site Plan Review Regulations and Subdivision Regulations, as applicable.

**8.4** Approval of Applications. A conditional use permit shall be issued only if an applicant complies with all of the requirements of this ordinance. The Planning Board may condition its approval of the developments on reasonable conditions

necessary to accomplish the objectives of this section or of the Fremont Master Plan, Zoning Ordinance, or any other federal, state, town resolution, regulation, or law, including a reduction in allowed density, or reasonable increase in required frontage, setbacks, or any other requirement if necessary to accomplish said objectives.

**8.5** General. The conditional use development provisions of this ordinance provide applicants with an alternative development approach intended to promote flexibility and innovation in land planning. These regulations that have been established are intended to be a minimum consideration of allowable impacts. Each tract of land possesses different, unique development characteristics and limitations, and the use allowed on any particular tract will be a function of innovative land planning and building design interacting with the special characteristics and limitations of the site.

**8.6** Standards for approval - All standards below must be met or impacts mitigated to the satisfaction of the Planning Board prior to the granting of a Conditional Use Permit.

- A. The permit is in the public interest.
- B. There will be no greater diminution of neighboring property values than would be created under any permitted use in the Flexible Use Residential District.
- C. That there are no existing violations of the Fremont zoning ordinance on the subject property.
- D. That the character of the area shall not be adversely affected in the context of:
  - i. Architecture
  - ii. Transportation
  - iii. Scale of coverage
  - iv. Scale of building size
  - v. Consistency of uses
- E. That granting the permit will not result in undue municipal expense
- F. That the proposed use will be developed in a manner compatible with the spirit and intent of the ordinance.
- G. That the capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted.
- H. That the general welfare of the Town will be protected.
- I. That the following impacts have been mitigated to the extent practical:

- i. Noise
- ii. Light
- iii. Transportation
- iv. Visual effects
- v. Odor

J. Landscaped or other appropriate buffers of sufficient opacity and materials shall be required if deemed reasonably necessary for the welfare of neighboring properties or the Town.

**8.7** Any Conditional Use Permit shall expire if: (1) substantial construction shall not have begun within one (1) year of the date of issuance of such permit; or, (2) if the use is discontinued for any reason for more than two (2) years. In such cases, a new application for a Conditional Use Permit must be completed and approved

**8.8** A. The provisions of Article XVIII, Sections 5, 6, 7 & 8 and Article XVIII, Section 4 shall not apply to any lawfully existing use within the Corporation/Commercial District or the Flexible Use District. The term “lawfully existing” shall mean any lawful pre-existing non-conforming use which predated the adoption of the Site Plan regulations or which has received Town of Fremont Planning Board Site Plan Review approval under the Site Plan Regulations.

B. All other existing non-conforming uses not lawfully existing as defined in Paragraph A above, shall be required to make application for relief, permit or approval as shall be required, within one (1) year from the date of the adoption of this Ordinance.

## **9 Home Occupations**

### **9.1 Purpose:**

The standards of this Section dealing with home occupations are designed to protect and maintain the residential character of Fremont while permitting certain limited commercial activities which are traditionally carried out in a home. Home occupations that meet all the requirements of this ordinance are exempt from site plan review.

### **9.2 Definition:**

Home occupation is defined as any business, occupation or activity conducted for gain within a residential building, or an accessory building thereto, which is incidental or secondary to the use of such building for dwelling purposes and which does not change the essential residential character of the building. This regulation applies to all zoning districts.



### 9.3 Standards:

- a. The home occupation shall be conducted solely by the member(s) of the immediate family that reside(s) in the dwelling unit except that one (1) additional non-resident may also be employed.
- b. No display, other than a name plate not more than one (1) square foot in area, that will indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling shall be allowed.
- c. No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to normal senses off the lot if the occupation is conducted in a single family or accessory building; or outside the dwelling unit or accessory building if the occupation is conducted on a lot containing a duplex or multi family unit.
- d. All home occupations shall be conducted entirely within an enclosed building. No materials or equipment associated with the home occupation shall be stored outside the building.
- e. The following businesses, occupations or activities are specifically prohibited:
  - 1) Motor vehicle and accessory sales or rental, repair and/or painting, including trailer rental or sales.
  - 2) Medical or dental clinic.
  - 3) Restaurant.
  - 4) Kennel and veterinary clinic.
  - 5) Funeral home.
  - 6) Nursery school, but not family day care, with six or fewer children.
  - 7) Repair shops or service establishments, except the repairs of electrical appliances, typewriters, cameras, or other similar small items.
  - 8) Beauty shops and barber shops, except when customer visits are by appointment only and are limited to no more than two customers in any one hour period. Beauty shops and barber shops allowed under these provisions shall be registered with the appropriate licensing and inspection authorities.
- f. The home occupation shall not require the regular need for delivery of materials to and from the premises by commercial vehicles over twelve thousand (12,000) lbs GVWR. The intent is to permit delivery vehicles such as United Parcel Service vehicles but to exclude tractor-trailers and other large, heavy commercial vehicles.

- g. The home occupation should not require the need for the on-site, over-night parking of commercial vehicles. If on site parking of commercial vehicles, with three (3) axles or more, is necessary it shall be garaged or screened.

## **10 Open Space Preservation Ordinance**

### **10.1 General Description.**

- a. General Concept: An Open Space Preservation Development (hereinafter OSPD) shall mean a residential development in which the buildings and accessory uses are located more closely together with reduced lot sizes, into one or more groups. All land not included in the building lots or street rights-of-way shall be dedicated as permanently-preserved open space. The overall housing density shall not exceed that which could be built under a conventional development plan, unless otherwise permitted as provided below. All OSPD's shall be serviced by water and sewage disposal systems in compliance with local and State regulations.

### **10.2 Purposes. The purposes of OSPD are to:**

- a. Maintain and preserve the rural character of the Town of Fremont by allowing an alternative residential development option which preserves areas of open space, provides for visual buffers from existing roads and residential development, and permits agricultural or conservation opportunities on parcels of open space.
- b. Preserve large, contiguous parcels of open space throughout the town and as described in the Fremont Master Plan. Preserve this undeveloped land in its existing natural state in order to protect valuable land and water resources for conservation, forestry, agriculture, aquifer recharge, watershed protection, wildlife habitat, outdoor recreation, scenic and historic values, beyond the extent provided by existing regulations.
- c. Provide for a diversity of housing types, opportunities, and styles which add recreational and aesthetic amenities to new neighborhoods.
- d. Enable economical and efficient street, utility, and public facility installation, construction and maintenance, and more efficient provision of municipal services.

- e. Provide for connected corridors of open land throughout town for preservation of habitat, environmental resources, and public enjoyment, where feasible.
- f. Protect scenic vistas and undeveloped expanses along the Town's roadways, including open space vistas from within the proposed development.

### **10.3 Permitted Uses:**

- a. Single-family detached dwellings on parcels greater than six (6) acres.
- b. On parcels greater than twelve (12) acres, duplex units or multi-family attached dwellings not exceeding four (4) dwellings per building shall be permitted. At least seventy (70) percent of the proposed units within a development must consist of single family detached dwellings. Additionally, units shall be interspersed in such a way to prevent a concentration of any one housing type in any portion of the OSPD.
- c. Accessory uses, including residential additions, garages, sheds, fences, and pools.
- d. Open space uses are limited to non-commercial parks, conservation and recreation areas, and agriculture and forestry.
- e. For a list of prohibited uses within OSPD see Table of Uses in this Ordinance.

### **10.4 Authority.**

Pursuant to NH RSA 674:21, the Planning Board (Board) is hereby given the authority to grant a Conditional Use Permit in accordance with the criteria of this section. The Board shall be authorized to deny an application that does not meet the express purposes and intent of this Section. Approvals may be granted with or without conditions.

### **10.5 Conditional Use Permit.**

Findings: The Planning Board may approve a Conditional Use Permit for an OSPD upon finding that it complies with the purposes and standards of this Section and is superior in design to a conventional subdivision with regard to protection of natural features and scenic resources of the site. The Board may attach reasonable conditions to the approval in order to secure the intents and purposes of this Section.

Standards for approval: The Board shall consider the following criteria in making its decision. All standards below must be met or impacts mitigated to the satisfaction of the Board prior to the granting of a Conditional Use Permit.

- a. The permit is in compliance with this ordinance and is in the public interest and will protect the general welfare of existing and future citizens.
- b. The character of the area shall not be adversely affected. This determination, to be made by the Planning Board, shall be made by considering the following aspects of the surrounding area.
  - 1) Consistency of architecture, except for single-family detached development, determined through analysis of the following:
    - Roof pitches;
    - Siding types;
    - Architectural styles of residential structures;
    - Proportional aspects of facades, building locations on lots;
  - 2) Transportation, determined through analysis of the following:
    - Access for safety vehicles onto the site, within the site, and to individual houses;
    - Capacity of nearby and affected intersections, and transportation corridors;
    - Cost for municipality to maintain roadways;
    - Layout, width, and construction of roadways on the site;
    - Proposed streets have been aligned to provide vehicular access to each house in a reasonable and economical manner. Lots and streets have been laid out to avoid or minimize adverse impacts on open space areas and to provide views of, and access to the open space from the lots.
  - (3) Protection of natural resources, determined through analysis of the following:
    - Environmentally sensitive areas, including but not limited to, wetlands, floodplains, shoreland buffers, wildlife corridors, and significant groundwater resources;
    - Maintenance of viewsheds and other visually appealing aspects of the site;
  - (4) Protection of cultural resources, determined through analysis of the following:
    - Existing or potential trailways for pedestrian travel;
    - Historic buildings or significant historical landscapes;
    - Existing or potential agricultural uses of the site.

- c. Granting the permit will not result in municipal expenses which would exceed that of a conventional subdivision.
- d. The proposed development will be constructed in a manner compatible with the spirit and intent of the Fremont Master Plan and Zoning Ordinance.
- e. The capacity of existing or planned community facilities and services (including streets and highways) will not be adversely impacted. Mitigation of these impacts by the developer can be considered in granting a conditional use permit.
- f. That the Open Space preserved as part of the development complies with purpose and intent of this Section and the specific requirements of Section 10.9.

#### **10.6 General Provisions.**

The Open Space Preservation development provisions of this ordinance provides applicants with an alternative development approach intended to promote flexibility and innovation in land planning. Within this context, the ordinances that are established are intended to be a minimum consideration of allowable impacts.

#### **10.7 Review and Approval Process.**

- a. Evaluation and approval of an OSPD shall be by the Board in accordance with the purposes, standards and guidelines set forth in this Section and the Fremont Subdivision Regulations.
- b. Pre-Application Meetings: Prior to the submission of any final plans, applicants are required to prepare conceptual plans under both conventional and OSPD regulations, review these plans with the Board at a regularly-scheduled meeting. The conceptual design process for an OSPD should start with a delineation of the most valuable natural resources and open space attributes of the site. Potential house locations, lot lines, road alignments and drainage facilities should then be configured so as to accomplish the protection and preservation of these resources and attributes. Full details on pre-application meeting can be found in the Fremont Subdivision Regulations.

#### **10.8 Density Standards.**

- a. Maximum Permitted Lots: The number of lots or homes must be equal to or less than the number allowed for a conventional subdivision, unless otherwise provided below. No increased density will be allowed unless in accordance with this Section. A Yield Plan shall be prepared in

accordance with the conventional subdivision Regulations to determine the total number of lots or homes allowed. The Yield Plan must contain adequate information for the Board to accurately determine the number of homes that could be constructed using conventional subdivision standards. Any land area used in the calculation of allowed homes or lots in an approved OSPD shall not thereafter be eligible as contributing land area in any subsequent development proposal.

- b. **Unbuildable Lots:** For the purposes of determining the number of lots allowable under this Section, there shall be excluded from the number of lots shown on such conventional subdivision layout all lots which the Board finds are not reasonably buildable, whether by reason of excessive development or site preparation costs due to remote proposed location, poorly-drained soils or steep slopes; sanitary disposal, drainage or water supply requirements; limited or unusually-configured buildable area, the permitting requirements of the State or a combination of the above. In consideration of the foregoing, the Board may consider recommendations of the Town Engineer, Conservation Commission, or any appropriate state agencies.
- c. **Density Bonus -** The Board may award the development a density bonus not to exceed fifteen (15%) percent of the number of lots achievable under a conventional yield plan to developments on parcels of twenty (20) acres or more.

**Open Space Bonus.** If the proposed development meets or exceeds any of the following criteria, a density bonus shall be awarded in the amount of five (5%) percent, unless otherwise noted. The maximum bonus awarded any application under this Ordinance shall be fifteen (15%) percent.

- 1) **Public Access Bonus -** Where the public is granted access to the open space, the development may be awarded a density bonus of five (5%) percent. The nature of public access required to satisfy this bonus is pedestrian traffic. The instrument granting access, acceptable to the Planning Board, may reasonably restrict the use of motorized vehicles.
- 2) **Existing roadway buffer.** Where the development has more than two hundred and fifty (250) feet of frontage on existing public roadways, and a two hundred and fifty (250) foot undisturbed buffer is provided, this bonus may be applied.
- 3) **Open fields.** If the development protects existing open fields that are visible from public roadways and greater than five (5) acres in size, a bonus of five (5%) percent shall be granted. The

development must provide for the protection of these resources in perpetuity.

## **10.9** Open Space Standards.

- a. General: All land not utilized for road rights-of-way or building lots shall be dedicated as permanently-preserved open space.
- b. Minimum Required Open Space: At least fifty (50%) percent of the upland portion of the site must be reserved in perpetuity as common open space. At least fifty (50%) percent of the open space must consist of soils with slopes less than fifteen (15%) percent. Open space dedicated in excess of the minimum required area may contain any percentage of wetland soils or steep slopes.
- c. Purposes: Open space shall be used solely for non-commercial recreation, conservation, agriculture or forestry purposes by residents and/or the public. Where appropriate, multiple use of open space is encouraged. At least half (1/2) of the required open space may be required by the Planning Board to be left in a natural state. The proposed use of the open space shall be specified in the application. If several uses are proposed, the plans shall specify what uses will occur, and where they shall be located on site. The Planning Board shall have the authority to approve or disapprove particular uses proposed for the open space.
- d. Open Space Layout: Open space shall be arranged to protect valuable natural and cultural environments such as stream valleys, wetland buffers, unfragmented forestland and significant trees, wildlife habitat, open fields, scenic views, trails, and archeological sites and to avoid development in hazardous areas such as floodplains and steep slopes.
- e. Open space shall be designed in larger blocks of land, preferably as part of an integrated open space network, laid out to be contiguous with open space areas of similar character (whether permanently-preserved or not) on adjacent parcels. Where feasible, these parcels shall be linked by trails. Contiguous open space shall generally be more than three (3) acres in area, at least two hundred (200) feet in width, and shall have a length-to-width ratio of no greater than four-to-one, except where intended to buffer linear features such as watercourses and wetlands, or designed as trail links. Fragmentation, or the creation of long, thin strips of open space, shall be avoided. Where open space directly adjoins private lots, it shall be demarcated with logical, straightforward boundaries such as existing rock walls, tree lines, topographic breaks, a roadway or path, or post-and-rail fencing.

- f. Protection, Ownership and Management: All common open space shall be permanently protected by covenants and restrictions in perpetuity and approved by the Conservation Commission. Restrictions shall provide for periodic inspection of the open space by the Town. A management plan may be required by the Planning Board which describes how existing woods, fields, meadows or other natural areas shall be maintained in accordance with good conservation practices, as recommended in the manual Identifying and Protecting New Hampshire's Significant Wildlife Habitat, NH Fish & Game and UNH Cooperative Extension. The Planning Board may require further legal review of any documents submitted, the cost of which shall be borne by the applicant. Open Space shall be conveyed by the applicant to:
- (1) A homeowners association or other legal entity under New Hampshire State Statutes. The developer is responsible for the maintenance of the open space and other facilities to be held in common until such time as the homeowners association is capable of assuming such responsibility. Thereafter, the members of the association shall share the cost of maintaining the open space. The Planning Board shall require the applicant to provide documentation that the homeowner's association is an automatic (mandatory) association that has been established prior to the conveyance of any lots within the subdivision; or
  - (2) To a non-profit organization, the principal purpose of which is the conservation of open space; or
  - (3) Subject to approval of the Planning Board and Board of Selectmen, may be dedicated to the Town of Fremont with a trust clause insuring that it be maintained as open space.
- g. Maintenance of Open Space: In any case where open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance as conservation or recreation land. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to maintain it in order to prevent or abate a nuisance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance expenses.
- h. Identification of Open Space and Access: The Planning Board may require placement of surveyed bounds sufficient to identify the location of



the open space and other reasonable markers to denote the location of access points to the open space and/or trails.

- i. Excess Open Space: The Board may allow open space in excess of the minimum requirements to be unrestricted by a conservation easement provided that use of the open space is limited by deed covenant to non-commercial parks, conservation and recreation areas or commercial agriculture and forestry.
- j. Recreation Lands: Where appropriate to the topography and natural features of the site, the Planning Board may require that at least two (2) acres of the open space shall be of a shape, slope, location and condition to provide an informal field for active recreation for the residents of the subdivision.
- k. External Buffer: A minimum buffer of undisturbed vegetation at least fifty (50) feet in width from the outer perimeter of the land subject to the application shall be maintained; where no vegetation exists, the Board may require tree planting to create a visual buffer. This fifty (50) foot buffer shall be maintained in a naturally vegetated state to screen and buffer the development and may account for up to twenty five (25%) percent of the minimum required open space.

#### **10.10 Standards for Building Lots and Site Design**

- a. Lot Shape and Size: House lots and building envelopes should generally be square or rectangular in shape and contain adequate upland area to accommodate average-sized houses and typical amenities such as garages, pools and sheds, including reasonable areas for expansion of these buildings. The minimum lot size shall be no less than three quarters ( $\frac{3}{4}$ ) of an acre or thirty two thousand six hundred and seventy (32,670) square feet per dwelling unit.
- b. Frontage: The minimum lot frontage shall be one hundred (100) feet. In the case of duplexes and multi-family structures, the setback shall be increased by ten (10) per family dwelling unit. In no case shall there be less than one hundred (100) feet of lot width at the building line. (see table below)
- c. Yards: For all dwelling units, the minimum front yard setback shall be twenty (20) feet; the minimum side yard setback shall be fifteen (15) feet; and the minimum rear yard setback shall be thirty (30) feet. In the case of duplexes and multi-family structures, the setback shall be increased by five (5) per family dwelling unit. All garages, sheds and pools must also meet these setbacks. (see table below)

	Single Family, Detached	Duplex	3- Family	4-family
Frontage	100'	120'	130'	140'
Front Setback	20'	30'	35'	40'
Side Setback	15'	25'	30'	35'
Rear Setback	30'	40'	45'	50'

#### **10.11 Other Standards:**

The layout and configuration of lots, homes, streets and open space is subject to the approval of the Planning Board. The layout must demonstrate preservation of open land in furtherance of the stated purposes of this Section, without detracting from the character of the neighborhood and without seriously diminishing the value of surrounding property.

- a. **Development Location:** Residences should be grouped in locations so that scenic views and vistas will remain unblocked, particularly as seen from public roads; prime agricultural soils, wildlife habitat and shoreline areas will be protected; stone walls, historic sites and their environs will be preserved; and significant natural features such as, but not limited to, vernal pools, prime wetlands, aquifers, older-growth trees, unique geologic formations and ridgelines will be protected. Wherever possible, structures should be located within any wooded upland on the parcel, or along the far edges of open fields and so that silhouettes of structures will be below the ridgeline or hilltop or, if the site is wooded, the building silhouettes will be lower than the existing canopy height. New structures should be screened from view from public roads with a buffer of existing trees or new plantings.
- b. The maximum number of house lots compatible with good design shall abut the open space and all house lots shall have reasonable physical and visual access to the open space through internal roads, sidewalks or paths.
- c. Development along existing scenic roads and the creation of new driveway openings on existing roadways shall be minimized or avoided altogether.
- d. **Pedestrian Access/Circulation:** Open space shall be laid out in conjunction with existing and proposed streets, sidewalks and lots so that the greatest degree of internal pedestrian circulation and access from the lots to both on-site and off-site open space is achieved. Access to the open space must be clear and direct, and arranged in a manner that does not conflict with the actual or apparent use of private lots.

- e. Landscaping: Common areas (such as community greens, cul-de-sac islands, and along both sides of new streets) shall be landscaped with deciduous shade trees. The minimum caliper of trees along roadways shall be three (3) inches measured at a point six (6) inches above the root ball, and spaced every one hundred (100) feet along the road right-of-way. Species shall be salt tolerant.

All utilities servicing the Open Space Preservation Development shall be placed underground.